IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 2089 OF 2005

Jintendra H. Shah & Anr ...Petitioners

Versus

Shree Chand Sarda & Anr ...Respondents

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Mr. Faisal Sayyed i/b M/s. Munilal Kher Ambalal & Co. Advocate for Petitioners

Mr. D.P. Adsule, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 20TH SEPTEMBER, 2005

P. C.:-

1. Leave to amend. Amendment to be carried out forthwith.

2. Heard the learned advocate for the petitioners and the learned A.P.P. for the State.

3. The petitioners have prayed for quashing of process issued against them in Criminal Case No. 668/SS/2004 which is pending in the Court of learned Additional Chief M.M. 44th Court, Andheri, Mumbai. In the said case, process has been issued against the petitioners under Sections 323, 504, 506(ii) 420, 406 r.w. 34 of I.P.C.

4. For the reasons recorded in the decision of this Court in the case of **V.K. Jain & Ors. Vs. Pratap V. Padode and Anr, reported in 2005(3) Mh.L.J. 778,** in my opinion, the petitioners have an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the petitioners prefer revision before the concerned Sessions Court against the order of the Magistrate issuing process.

5. Liberty is granted to the petitioners to prefer revision before the concerned Sessions Court. The learned advocate for the petitioners states that the necessary revision would be preferred within a period of four weeks from today. I am informed that the date before the trial is Court is on 20.10.2005. In view of this statement, petitioners are granted exemption from personal appearance before the trial Court on 20.10.2005.

6. On the necessary revision being preferred by the petitioners before the concerned Sessions Court, the concerned Sessions Court shall dispose of the same on merits after hearing necessary parties.

7. Writ Petition is disposed of.

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